# OFFICE OF THE HEARING EXAMINER KING COUNTY, WASHINGTON

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#### REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. L04P0027

Proposed Ordinance No. 2006-0295

## WEHRMAN SUBDIVISION

Preliminary Plat Application

Location: South of Southeast 188th Street, west of 124th Avenue South

Applicant: Trinity Land Development

Attn: Chris Austin

310 – 29 Street Northeast Puyallup, Washington 98373 Telephone: (253) 845-2922

King County: Department of Development and Environmental Services,

represented by Chad Tibbits 900 Oakesdale Avenue Southwest Renton, Washington 98055

Telephone: (206) 296-7194 Facsimile: (206) 296-7051

#### SUMMARY OF DECISION/RECOMMENDATIONS:

Department's Preliminary Recommendation:

Department's Final Recommendation:

Examiner's Decision:

Approve with conditions

Approve with conditions

Approve with conditions

## **EXAMINER PROCEEDINGS:**

Hearing Opened:

Hearing Closed:

July 25, 2006

July 25, 2006

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

#### FINDINGS:

#### 1. **General Information**:

Developer: Trinity Land Development

Attn. Clark McGowan 310-29<sup>th</sup> Street NE Puyallup, WA 98373

253-845-2922

Engineer: Barghausen Consulting Engineers

18215-72<sup>nd</sup> Avenue South

Kent, WA 98032 425-251-6222

STR: 33-23-05

Location: South of SE 188<sup>th</sup> Street and west of 124<sup>th</sup> Avenue S.

Zoning: R-6 Acreage: 7.25 acres

Number of Lots: 30

Density: Approximately 4.14 dwelling units per acre
Lot Size: Approximately 3,960 to 7,892 square feet in size
Proposed Use: Single Family Detached or Dually Attached Dwellings

Sewage Disposal: Soos Creek Water and Sewer District Water Supply: Soos Creek Water and Sewer District Fire District: King County Fire District No. 40 School District: Renton School District No. 403

Application completeness date: December 14, 2004

- 2. Except as modified herein, the facts set forth in the DDES reports to the Examiner and the DDES and King County Department of Transportation testimony are found to be correct and are incorporated herein by reference.
- 3. The subject property is a 7.25-acre, mostly rectangularly shaped parcel (a rectangle with small appendages in the northwest and southeast corners) located at the present easterly terminus of Southeast 188<sup>th</sup> Street east of 120<sup>th</sup> Avenue Southeast, generally in the Panther Lake area east of Renton and Kent and abutting the west boundary of Boulevard Lane Park north of Southeast 192<sup>nd</sup> Street. The site terrain generally is composed of an east-descending slope, dropping fairly steeply in the western portions and becoming more gradual in the eastern portions where the property descends into the Soos Creek drainage corridor. The eastern edge of the site contains a

Class 1 wetland associated with Soos Creek. The property is wooded with a moderately dense third-growth mix of native coniferous and deciduous trees and typical groundcover. There is no structural development on the site. The surrounding area consists of a formerly lower-density suburban/semi-rural area which is becoming more densely urbanized with fairly standard suburban density single-family residences.

- 4. Applicant Trinity Land Development proposes subdivision of the property into 30 lots for single-family residences, which may be attached in pairs or may be detached; regardless of the structural configuration, each residence would be on its own individual lot. The residential density would be 4.14 units per acre, with the lot sizes ranging from approximately 3,960 square feet to 7,982 square feet. Recreation facilities would be located in the northeastern portion of the site. Access to the lots would be provided by extension of Southeast 188<sup>th</sup> Street easterly into the site (with the current steep grade reduced by feasible cuts and fills necessary to achieve the King County Road Standard (KCRS) grade maximum of 14 percent), and then the internal road would make a 90 degree turn to extend due south to the south boundary and terminate in a temporary cul-de-sac. Eventually, the north-south road would be extended south as part of the proposed *Fleuve des Voiles* (formerly known as the *Soos Creek* preliminary plat; file L04P0002). The north-south road may also be extended northerly into the contemplated *Janda* development to the north.
- 5. Development drainage will be collected and conveyed to a detention facility in the southeast portion of the site, and then released under controlled metering into the Soos Creek wetland/stream system. The drainage design is subject to the Level 2 flow control and water quality requirements of the 1998 Surface Water Design Manual. A Level 1 downstream analysis was conducted by an applicant consultant and reviewed by DDES; the analysis concludes that there are no downstream flooding problems which require heightened drainage standards.
- 6. With the internal road improvements of the development, along with the access improvement of Southeast 188<sup>th</sup> Street and offsite improvements in certain areas (as depicted in Exhibit 13), safe walking conditions will be sufficiently provided for resident schoolchildren to walk to their respective schools and/or nearest respective bus stops for transportation to their schools within the Renton School District.
- 7. There is no authority in this case to impose school impact mitigation fees on the development, since no ordinance has been adopted to impose such fees within the Renton School District. No significant adverse impacts to schools are identified in the environmental documents issued for the development action under the State Environmental Policy Act (SEPA).
- 8. King County Fire District No. 40 requests that internal roadways in the development be sufficiently sized and/or restricted with parking signage so that its vehicles and equipment can maneuver within the site and be operated without blockage during fire and emergency aid operations. The Examiner has no authority to require road standards greater than those adopted formally by King County for imposition on development (the KCRS), and does not find the possibility of vehicle blocking in this case to rise to the level of a probable and direct threat to the public health, safety and general welfare sufficient to deny the proposed development based on assertions of insufficient roadway widths and/or parking regulation. The Examiner also notes KCDOT testimony that parking regulation is typically performed by the County on a case by case basis, after a problem has become evident. That is understandably frustrating to fire emergency

- authorities because retrofitting parking restrictions is often unpopular, but the situation seems to beg coordination between the fire districts and County development regulation authorities, and eventual legislative proposals if appropriate.
- 9. The traffic impacts of the development will cause five a.m. peak hour trips to enter the intersection of Southeast 188<sup>th</sup> Street and 116<sup>th</sup> Avenue Southeast to the west of the project entry; during the p.m. peak hour, seven trips associated with the development will enter the intersection. Those are relatively minimal impacts from a traffic impact regulation standpoint, and the Examiner notes the County staff's conclusion that the traffic impacts of the proposed development do not rise to the level of a significant impact and do not breach the threshold requiring offsite traffic impact mitigation of deficient arterials.

#### CONCLUSIONS:

- 1. The proposed subdivision, as conditioned below, would conform to applicable land use controls. In particular, the proposed type of development and overall density are specifically permitted under the R-6 zone.
- 2. If approved subject to the conditions below, the proposed subdivision will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
- 3. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.
- 4. The dedications of land or easements within and adjacent to the proposed plat, as shown on the revised preliminary plat submitted on April 19, 2006, or as required for final plat approval, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

#### DECISION:

The preliminary plat of the *Wehrman* subdivision, as revised and received April 19, 2006, is approved subject to the following conditions of approval:

- 1. Compliance with all platting provisions of Title 19A of the King County Code.
- 2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
- 3. The plat shall comply with the base density and minimum density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environment Services.

Any/all plat boundary discrepancy shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

- 4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
- 5. The applicant shall obtain documentation by the King County Fire Protection Engineer certifying compliance with the fire flow standards of Chapter 17.08 of the King County Code.
- 6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the approved preliminary plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in K.C.C. 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
  - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
  - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
  - c. The following note shall be shown on the final recorded plat:
    - "All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # \_\_\_\_\_\_ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
  - d. The drainage detention facility shall be designed to meet at a minimum the Level 2 Flow Control and Basic Water Quality menu in the 1998 King County Surface Water Design Manual (KCSWDM).
  - e. Storm drain stubs for future connection shall be provided along the west property line in general conformance with the Preliminary Grading and Storm Drainage Plan received April 19, 2006, unless otherwise approved by DDES.
  - f. The applicant's geotechnical engineer shall provide recommendations for the design and construction of the proposed site grading, road design, rock or retaining walls and drainage detention facility design. The geotechnical engineer shall evaluate the site for

- potential groundwater seeps and provide design recommendations to address groundwater found. The geotechnical recommendations shall be included in the T.I.R. and incorporated into the design with submittal of the engineering plans.
- g. Special geotechnical construction inspection of the site grading, road construction, rock or retaining walls and drainage facility, is required to ensure compliance with the geotechnical recommendations. Inspection reports shall be submitted to the assigned Land Use Inspector during the construction phases of those facilities. A final construction report shall be submitted verifying compliance with the geotechnical recommendations.
- 7. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
  - a. Road A shall be improved at a minimum to the urban subaccess street standard. A temporary turnaround shall be provided at the south end of Road A. This improvement shall be designed in general conformance with the Preliminary Grading and Storm Drainage Plan received April 19, 2006, unless otherwise approved by DDES. It is intended that this improvement will match the proposed road improvements for the plat of *Fleuve des Voiles* File L04P0002.
  - b. FRONTAGE and OFFSITE: The frontage and offsite portion of SE 188<sup>th</sup> Street from the west property boundary west to the existing road pavement shall be improved at a minimum to the urban half-street standard. This improvement shall be designed in general conformance with the Preliminary Grading and Storm Drainage Plan received April 19, 2006. Other designs for this frontage and offsite improvement may be considered, as approved by DDES.
  - c. Offsite Walkway Improvements: These walkway improvements shall be designed in general conformance with the conceptual school walkway plan submitted April 19, 2006, unless otherwise approved by DDES as providing sufficient safe walking conditions for resident schoolchildren to their pertinent bus stops/schools. These improvements shall include any necessary grading and storm drainage work necessary to either tight-line the abutting roadside ditches or relocate the ditches within existing right-of-way.
    - SE 188<sup>th</sup> Street (120<sup>th</sup> Avenue SE to match into the above 1/2-street improvement near the west plat boundary) shall be widened to provide an eight (8) foot wide paved shoulder along the south side of the street.
    - SE 188<sup>th</sup> St (116<sup>th</sup> Ave SE to 120<sup>th</sup> Ave SE) shall be widened to provide a minimum 16 foot wide paved surface as measured from the construction centerline. This will provide an 11-foot wide travel lane and a 5-foot wide paved shoulder.
    - 120<sup>th</sup> Ave SE (SE 188<sup>th</sup> St to SE 184<sup>th</sup> St.) shall be widened to provide a minimum 16 foot wide paved surface as measured from the construction centerline. This will provide an 11-foot wide travel lane and a 5-foot wide paved shoulder.

- d. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
- 8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
- 9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
- 10. The proposed subdivision shall comply with the Sensitive Areas Code as outlined in K.C.C. 21A.24. Permanent survey marking and signs as specified in K.C.C. 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
- 11. Preliminary plat review has identified the following specific requirements which apply to this project. All other applicable requirements from K.C.C. 21A.24 shall also be addressed by the applicant.

### A. Wetlands

The Class 1 wetland shall have a minimum buffer of 100 feet, measured from the wetland edge. The wetland and its respective buffers shall be placed in a Sensitive Area Tract (SAT). A minimum building setback line of 15 feet shall be required from the edge of the tract.

#### **B.** Streams

The Class 2 stream used by salmonids shall have a minimum 100-foot buffer, measured from the ordinary high water mark (OHWM). The stream(s) and their respective buffers shall be placed in a Sensitive Area Tract (SAT). A minimum building setback line of 15 feet shall be required from the edge of the tract.

#### C. Alterations to Streams or Wetlands

If alterations of streams and/or wetlands are approved in conformance with K.C.C. 21A.24, then a detailed plan to mitigate for impacts from those alterations will be required to be reviewed and approved along with the plat engineering plans. A performance bond or other financial guarantee will be required at the time of plan approval to guarantee that the mitigation measures are installed according to the plan. Once the mitigation work is completed to a DDES Senior

Ecologist's satisfaction, the performance bond may be replaced by a maintenance bond for the remainder of the five-year monitoring period to guarantee the success of the mitigation. The applicant shall be responsible for the installation, maintenance and monitoring of any approved mitigation. The mitigation plan must be implemented prior to final inspection of the plat.

#### D. Geotechnical

The applicant shall delineate all on-site erosion hazard areas on the final engineering plans (erosion hazard areas are defined in K.C.C. 21A.06.415). The delineation of such areas shall be approved by a DDES geologist. The requirements found in K.C.C. 21A.24.220 concerning erosion hazard areas shall be met, including seasonal restrictions on clearing and grading activities.

12. The following note shall be shown on the final engineering plan and recorded plat:

# RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE AREAS AND BUFFERS

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

- 13. Suitable recreation space shall be provided consistent with the requirements of K.C.C. 21A.14.180 and K.C.C. 21A. 14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
  - a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans.
  - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
- 14. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
- 15. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 21A.16.050):
  - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
  - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
  - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
  - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the county has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
  - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
  - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
  - g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if SE 188<sup>th</sup> Street in the subject area is on a bus route. If SE 188<sup>th</sup> Street in the subject area is on a bus route, the street tree plan shall also be reviewed by Metro.

h. The street trees must be installed and inspected, or a performance bond posted, prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current county fees.

- 16. To implement K.C.C. 21A.38.230 which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of K.C.C. 21A.38.230. No clearing of the subject property is permitted until the final tree retention plan is approved by LUSD. Flagging and temporary fencing of trees to be retained shall be provided, consistent with K.C.C. 21A.38.230.B.4. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant to K.C.C. 21A.38.230.B.4.d.(2).
- 17. A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with K.C.C. 21A.38.230.B.6. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.)

ORDERED this 10th day of August, 2006.

Peter T. Donahue, Deputy
King County Hearing Examiner

TRANSMITTED this 10th day of August, 2006 to the following parties and interested persons of record:

Matt BerntsonAnnete ErvinThomas Goff12040 SE 188th St.18848 - 120th Ave. SE18701 - 126th Pl. SERenton WA 98058Renton WA 98058Renton WA 98058

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Kelly Whiting

KC DOT, Rd. Srvcs. Div. MS KSC-TR-0231

### NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) on or before August 24, 2006. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before August 31, 2006. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3<sup>rd</sup> Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JULY 25, 2006, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L04P0027.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Chad Tibbits, Bruce Whittaker and Kristen Langley, representing the Department; Ivana Halvorsen representing the Appellant, and Matt Berntson.

The following Exhibits were offered and entered into the record:

Exhibit No. 1	Department of Development and Environmental Services file no. L04P0027
Exhibit No. 2	DDES Preliminary Report dated July 25, 2006
Exhibit No. 3	Application received December 14, 2004
Exhibit No. 4	Environmental Checklist submitted December 10, 2004
Exhibit No. 5	Determination of Non-significance issued June 23, 2006
Exhibit No. 6	Affidavit of Posting indicating posting date of February 11, 2005; received by DDES
	on February 16, 2005
Exhibit No. 7	Plat map received April 19, 2006
Exhibit No. 8	Land use map showing zoning, plot date of February 1, 2005
Exhibit No. 9	Assessor's maps (2) 23-05-33SW
Exhibit No. 10	Level I Offsite Drainage Analysis, revised November 9, 2005
Exhibit No. 11	Boundary and Topographic Survey, received December 14, 2004
Exhibit No. 12	Preliminary Grading & Drainage, received August 19, 2005
Exhibit No. 13	existing School Walkway Conditions, received April 19, 2006
Exhibit No. 14	Wetland Delineation Report, received December 14, 2004
Exhibit No. 15	Traffic Impact Analysis, received January 17, 2006
Exhibit No. 16	Not submitted
Exhibit No. 17	Certificate of Transportation Concurrency, received December 14, 200?
Exhibit No. 18	Subdivision Density & Dimension Calculation worksheet, received December 14, 2004
Exhibit No. 19	Fire District Receipt, received December 14, 2004
Exhibit No. 20	Certificate of Sewer Availability, received December 14, 2004
Exhibit No. 21	Certificate of Water Availability, received December 14, 2004
Exhibit No. 22	Geotechnical Engineering Study, dated January 17, 2006
Exhibit No. 23	Photographs (3 color copies) depicting a fire truck in various access situations

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